Ontario. Labour Relations Board
Enforcement of labour
Legislation

ENFORCEMENT OF LABOUR LEGISLATION:

Herein of certain powers of the Saskatchewan and British Columbia Labour Relations Boards in the nature of "Cease and Desist Orders"

INTRODUCTION

There exists in the Labour Legislation of two provinces of Canada, namely Saskatchewan and British Columbia, certain provisions for enforcement of the legislation which are not contained in other Provincial, or for that matter, Dominion legislation. These provisions have to do with the power of the Labour Relations Boards in these two provinces to issue orders which in common parlance have come to be known as "Cease and Desist Orders and Compliance Orders". It was felt that this legislation should be drawn to the attention of the Committee so that the members would have a clearer picture of all the methods used in the Common Law Jurisdictions in Canada to enforce the legislation.

The so-called cease and desist order may be, and usually is, only one of a number of methods by which compliance with or enforcement of the legislation may be secured. In order that the Committee may get a proper perspective, brief reference will therefore be made first, to the enforcement provisions of the Ontario Labour Relations Act and secondly, during the discussion on cease and desist orders, to some of the other remedies available under the Saskatchewan and British Columbia legislation.

In Ontario the following remedies are available:

1. Prosecution under Summary Convictions legislation for failure to comply with or for contravening any provision of the Act or any decision, order, direction, declaration or ruling made under the Act.

Leave of the Board must be obtained before a prosecution may be launched save in the case of a failure to comply with an order of the Minister made under section 58 of the Act. The penalty in every instance is a fine.

2. Declarations by the Board that employees have engaged in an unlawful strike or that a trade union or employer has called or authorized, respectively, an unlawful strike or lockout.

3. By virtue of sections 11 and 68(1)(e) of the Ontario Act the Board appears to have the power to declare or make a final and conclusive finding that a party to a proceeding before the Board has not bargained in good faith and made every reasonable effort to make a collective agreement. While no penalty attaches to such a finding per se it may be that, if leave to prosecute were subsequently granted and court proceedings instituted, the Court would be bound to accept the Board's finding in this respect.

4. Orders by the Minister of Labour following the report of a commissioner appointed to inquire into an allegation that a person has been refused employment, discharged, discriminated against, threatened, coerced, intimidated or otherwise dealt with contrary to the Act. These orders may contain directions for compensatory relief, as for example, reinstatement, payment of back wages, and so on. Failure to obey such an order may result in prosecution, the institution of which does not require the leave of the Board.

For a more complete account of these remedies see:

Summary of the Provisions of the Labour Relations Act, pp.21-29, filed earlier with the Committee.

One further point should be made before turning to the Saskatchewan and British Columbia legislation. While the Ontario Board has no power to issue cease and desist or compliance orders, it may and indeed often is called upon in certification or other types of cases to pass on conduct and activities which constitute unfair practices under the Act. Although no penalties flow from any of the Board's findings, nevertheless its decisions on such matters may have a considerable effect on the weight to be given a petition of objection or to the status of an organization or to a collective agreement.

SASKATCHEWAN

The Saskatchewan Trade Union Act, R.S.S. 1953, c. 259, as amended, differs in many respects from other labour legislation in Canada and has done so from its inception. Thus, for example, there are no compulsory conciliation or arbitration features in it and limitations on the right to strike or lock-out are cut to an absolute minimum. The unfair labour practice sections also differ in a number of aspects. Apart from the usual type of unfair practice such as discriminating or interfering with the formation or administration of any labour organization or contributing financial or other support to it, or discriminating in regard to hiring or tenure of employment, the Saskatchewan Act makes it an unfair labour

practice for an employer or his agent to threaten to shut down or move a plant or any part of a plant in the course of a labour dispute (section 8(1)(i)); to maintain a system of industrial espionage (section 8(1)(j)); to bargain collectively with a company dominated organization (section 8(1)(k); to refuse to permit representatives of a trade union, which has a collective agreement with the employer, to negotiate for a settlement of grievances during working hours or to deduct wages for time lost spent in such negotiations (section 8 (1)(d)); to fail to deduct union dues (section 25) or to abide by a union security clause (section 27). One other feature is the so-called "reverse-onus" rule. Where an employer discharges an employee from his employment and it is alleged by a trade union that such employer has thereby committed an unfair labour practice, the onus is on the employer to show that the discharge was not contrary to the Act (section 8(1)(e)). There are other unfair labour practices defined in section 8, but these examples will illustrate to some extent the scope of prohibited activity under the Saskatchewan Act.

Powers of the Saskatchewan Board.

By section 5 of the Trade Union Act the Board is empowered to make orders, inter alia, requiring an employer to bargain collectively; (the Ontario Board has this power under section 13(1) of the Ontario Act); determining whether an unfair labour practice is being or has been engaged in; requiring any person to refrain from violating the Act or from engaging in an unfair labour practice; requiring an employer to reinstate an

an employee discharged under circumstances determined by the Board to constitute an unfair labour practice, or otherwise contrary to the provisions of the Act; fixing and determining the monetary loss suffered by an employee ordered to be reinstated and requiring an employer to pay such employee the monetary loss fixed and determined by the Board.

An examination of these powers reveals that in the main they take a negative form - that is, the Board is empowered to order a person to refrain from unfair labour practices or violations of the Act. However, in the case of improper discharge, the Board may order re-instatement and require an employer to pay the employee his monetary loss. The Board is also empowered to require an employer to bargain collectively. These however appear to be the only positive powers of the Board in dealing with unfair labour practices. Of course it may be said that if the Board orders an employer to refrain from, say, failing to deduct trade union dues from wages, the order is in essence an order to take positive action, that is to enforce the check-off.

Since, by section 8, declaring or causing a lock-out or commencing to take part in or persuading or attempting to persuade employees to take part in a strike while an application is pending before the Board or any matter is pending before a board of conciliation is an unfair labour practice, the Board has power, presumably, to require any person to refrain from engaging in such activity.

Procedure.

Proceedings before the Board are instituted in accordance with the rules and forms prescribed by the Board. Hearings are held when requested by any of the parties or when the Board deems it advisable to hold a hearing. While hearings are often not held in representation cases a hearing is normally held in an unfair labour practice case. The hearings are open to the public and the Board while striving to keep the proceedings informal nevertheless adheres to pretty strict court room procedures. All witnesses are sworn and full cross examination is permitted. The hearing of an unfair labour practice case generally takes a good deal of time to complete.

It should be noted that unlike the practice in the United States, evidence respecting unfair labour practices may become relevant in a representation or certification case before the Saskatchewan Board and, if such is the case, the Board will hear this evidence and not leave the matter to be determined, as is the case before the National Labour Relations Board in Washington, by the unfair practice procedures. Of course in a certification case the Saskatchewan Board does not issue a "cease and desist order" because that is the result of a proceeding which must be instituted separate and apart from the certification case if an order is desired. While this may appear to involve a certain duplication of effort it does not always work out that way. Thus where a certification application and an unfair labour practice complaint are filed at approximately the same time, the union may,

and often does withdraw the unfair practice application once it is certified. Occasionally, too, the employer will voluntarily cease the prohibited activity after it has been aired in the certification case, with the result that the union will withdraw its charges.

Enforcement.

In a very real sense the power of the Saskatchewan Board to issue orders respecting unfair labour practices constitutes one method of securing compliance with the provisions of the legislation. This is supported by the fact that in most instances the parties against whom they are directed comply with orders issued. On occasion the order itself has been attacked on the ground that the Board lacked jurisdiction to make it and, in some instances, Board orders have been quashed for this reason. If there should be a failure to comply with an order and no question is raised as to jurisdiction, the Trade Union Act provides a number of methods which may be used to enforce the order, or for that matter any order of the Board whether it relates to unfair practices or not.

One of these methods, and a rather unusual one so far as the Canadian picture is concerned, is by contempt proceedings. Section 10 of the Act provides that a certified copy of all orders and decisions of the Board (not just orders dealing with unfair labour practices) must be filed in the office of the Registrar of the Court of Queen's Bench within fourteen days and when so filed becomes enforceable as a judgment or order of the Court. The Board

itself, any trade union affected or any interested person may apply to the Court to enforce any order of the Board and on such application the Court is bound absolutely by the findings of the Board and "shall" make such order or orders as may be necessary to enforce compliance (section 11(2)). The Court may even refer back to the Board any question of compliance or non-compliance with the order of the Board in question. As of last summer contempt proceedings had been instituted on only one occasion (See Mitchell v Chadwick, [1948] 1 D.L.R. 157, 1 W.W.R. 161)

Another unusual method of enforcement, again applicable in the case of all orders of the Board, is the power conferred by section 13, on the Lieutenant-Governor-in-Council to appoint a controller to take possession of any business, plant or premises of an employer who has wilfully disregarded or disobeyed an order of the Board. So far as I was able to ascertain this power has also been invoked on only one occasion.

A third remedy is by way of prosecution. Any person who takes part in, aids, abets, counsels or procures any unfair labour practice is guilty of an offence and liable to certain prescribed fines in addition to any other penalty which he has incurred or had imposed on him. (see section 12(1)). In addition, however, any person who fails to comply with an order of the Board is also guilty of an offense and liable to a fine. Thus a person who fails to comply with an order of the Board with respect to an unfair labour practice is guilty of an offense (see section 12(3)). If he has taken part in, aided or abetted etc. an unfair labour

practice, he is guilty of a separate offense. In either case, no prosecution is to be instituted without the consent of the Board. (see section 12(3). Any trade union, employer or any person directly affected may apply to the Board for its consent. The application must be in writing, verified by statutory declaration, and it must set forth the full details of the offense alleged to have been committed. (See clause 17 of the Rules & Regulations of the Board). If consent is granted the prosecution is conducted under summary conviction legislation.

The relevant sections of the Saskatchewan Trade Union Act are set out in Schedule I.

BRITISH COLUMBIA

While the British Columbia Labour Relations Act, (1954), c.17, differs in many ways from the Ontario Act, these differences are not so radical as to make it necessary to comment on them separately and apart from the subject matter of this memorandum.

Under section 7 of the Act, the British Columbia Labour Relations Board is empowered to make orders directing employers, trade unions or persons to cease doing certain prohibited acts and, in the same or subsequent orders, to direct employers, trade unions or persons to rectify the act or acts so done. The prohibited acts or unfair labour practices with respect to which the Board may issue orders are carefully defined in sections 4, 5 or 6 of the Act and include discharge for discriminatory reasons.

Attention is also directed to section 5(2) which provides: "No trade-union and no person acting on behalf of a trade-union and no employee shall support, encourage, condone, or engage in any activity that is intended to restrict or does restrict or limit production or services." This section was used by an employer in one case (indeed the only case where an employer has sought an order of the Board under section 7) for an application to the Board requiring a union to cease what amounted to secondary boycott activities. The case was dismissed by the Board for lack of evidence. The Board does not regard section 5(2) as authorizing it to issue orders requiring trade-unions and employees from engaging in unlawful strikes. In fact under the B.C. Act the Board takes the position that it has no power at all to deal with illegal strikes and lockouts. Action in such cases must be either by way of prosecution in the Courts (see section 58) or by nullification of the certification or collective agreement, or check-off after adjudication by a judge. (See sections 54 and 55). This latter remedy has never been invoked.

The most common type of case which the Board is called upon to deal with under section 7 relates to charges of discrimination by reason of trade union activities. There is no "reverse-onus" rule as in Saskatchewan.

There is some question as to just how far the Board may require positive action in an order. Under section 7 its prime power is to direct a person "to cease" doing a prohibited act. This is strictly a negative power. In addition, however,

and as a result of an amendment to the Act, the Board is now empowered to direct a person "to rectify" the act so done. Debate seems to centre around the extent of the Board's power to order rectification. Whatever is involved in the word "rectify", the Board has decided that where it orders an employer to cease refusing to continue to employ some one, it has jurisdiction to order rectification by way of re-instatement. A copy of a typical order of the Board in this class of case is attached as Schedule II.

Procedure.

Unfair labour practice cases under section 7 are initiated by way of complaint to the Board. Unlike other types of cases which come before the Board, there are no prescribed forms and the complaint may, apparently, take the form of a letter, but must set out the order sought and an outline of the charge (see Regulation 17). The Board notifies the person or organization charged that a complaint has been filed and that an inquiry will be held into the matter. Prior to the hearing, the Board normally sends out an investigation officer to interview both sides in the dispute. This report is not released to the parties. Although the Board may not necessarily hold hearings in other kinds of applications, it invariably does so in the case of an application under section 7. At the hearing witnesses are sworn and subject to examination and cross-examination and a full opportunity is given to the parties to make their submissions. The Board reports

that the hearing of this type of case takes a considerable amount of time.

There is no legislative requirement that unfair labour practices be investigated by a conciliation officer with a view to effecting a settlement as is the case with respect to certain unfair practices under the Ontario Act, (see section 57), before a formal inquiry is conducted. However, an informal type of mediation may take place in some cases in British Columbia before an application is made under section.7.

Enforcement.

As in the case of the Saskatchewan Board, the power of the B.C. Board to issue orders respecting unfair labour practices constitutes one method of securing compliance with the provisions of the legislation. The B.C. Act provides other methods as well, namely, prosecution in the Courts, and a reference to a judge of the Supreme Court of British Columbia in connection with illegal strikes and lockouts. As in the case of Saskatchewan, the former, that is prosecution, may also be used to enforce the unfair labour practice orders of the Board. Thus section 7(3) of the Act provides that it is an offense for an employer, trade-union or person not to obey an order made under section 7(2). If it is intended to enforce an order in this way leave must first be obtained from the Board. (section 85). There is no prescribed form for consent to prosecute but Regulation 18 states that it shall be in writing and shall contain the nature and particulars

of the offense and a statement of the wording of the charge it is proposed to lay. Persons who would appear to be affected by the prosecution are supplied with a copy of the charge. The Board does not make a full scale inquiry and, as I understand it, does not hold a hearing. An investigation is made by a Board officer and, if after this inquiry the Board is satisfied that the application is not frivolous or vexatious, consent will be granted.

While the Board is of the opinion that it has the power to institute a prosecution for the enforcement of its orders it has never done so and, in fact, does not believe that it should use this power.

It has not been necessary to use prosecution to any extent in order to secure compliance with the Board's orders. The Board issues its order and seldom hears of the matter again. Up to last summer it was only necessary to go to the Courts on one occasion. In that instance leave was obtained by a trade-union but the Attorney-General's department assisted in the prosecution by supplying counsel. The accused was convicted for failing to comply with an order of the Board.

The relevant sections of the British Columbia Labour Relations Act are set out in Schedule III.

[illegible] of the Saskatchewan Trade Union Act,
[illegible] c. 259, as amended, referred to in the [illegible]

[illegible] 5. The Board shall have power to make orders:

(a) determining whether the appropriate unit of employees for the purpose of bargaining collectively shall be an employer unit, craft unit, plant unit or a subdivision thereof or some other unit;

(b) determining what trade union, if any, represents a majority of employees in an appropriate unit of employees;

(c) requiring an employer to bargain collectively;

(d) determining whether an unfair labour practice is being or has been engaged in;

(e) requiring any person to refrain from violations of this Act or from engaging in any unfair labour practice;

(f) requiring an employer to reinstate any employee discharged under circumstances determined by the board to constitute an unfair labour practice, or otherwise, contrary to the provisions of this Act;

(g) fixing and determining the monetary loss suffered by any employee discharged under the circumstances mentioned in clause (f) or otherwise contrary to the provisions of this Act, and requiring an employer to pay such employee the monetary loss fixed and determined by the board;

(h) determining whether a labour organization is a company dominated organization;

(3) It shall be an unfair labour practice for any employer or employer's agent.

(a) to interfere with, restrain or coerce any employee in the exercise of any right conferred by this Act;

(b) to discriminate or interfere with the formation or administration of any labour organization or contribute financial or other support to it; provided that an employer shall not be prohibited from permitting the bargaining committee or officers of a trade union representing his employees in any unit to confer with him for the purpose of bargaining collectively or attending to the business of a trade union without deduction from wages or loss of time so occupied or from agreeing with any trade union for the use of notice boards and of the employer's premises for the purposes of such trade union;

(c) to fail or refuse to bargain collectively with representatives elected or appointed (not necessarily being the employees of the employer) by a trade union representing the majority of the employees in an appropriate unit;

(d) to refuse to permit any duly authorized representative of a trade union with which he has entered into a collective bargaining agreement to negotiate with him during working hours for the settlement of disputes and grievances of employees covered by the agreement, or to make any deductions from the wages of any such duly authorized

representative of a trade union in respect of the time actually spent in negotiating for the settlement of such disputes and grievances;

(e) to discriminate in regard to hiring or tenure of employment or any term or condition of employment or to use coercion or intimidation of any kind, including discharge or threat of discharge of an employee, with a view to encouraging or discouraging membership in or activity in or for a labour organization or participation of any kind in a proceeding under this Act, and if an employer or employer's agent discharges an employee from his employment and it is alleged by a trade union that such employer or employer's agent has thereby committed an unfair labour practice within the meaning of this clause, it shall be presumed, unless the contrary is proved, that such employer or employer's agent has discriminated against such employee in regard to tenure of employment with a view to discouraging membership in or activity on behalf of a labour organization or participation in a proceeding under this Act;

provided that nothing in this Act precludes an employer from making an agreement with a trade union to require as a condition of employment membership in or maintenance of membership in such trade union or the selection of employees by or with the advice of a trade union or any other condition in regard to employment, if such trade union has been designated or selected by a majority of employees in any such unit as their representative for the purpose of bargaining collectively;

to require as a condition of employment that any person shall abstain from joining or assisting or being active in any trade union or from exercising any right provided by this Act, except as permitted by this Act;

(g) to interfere in the selection of a trade union as a representative of employees for the purpose of bargaining collectively;

(h) to maintain a system of industrial espionage or to employ or direct any person to spy upon a member of proceedings of a labour organization or the officers thereof or to interfere by any employee of any right provided by this Act;

(i) to threaten to shut down or move a plant or any part of a plant in the course of a labour dispute;

(j) to declare or cause a lock-out or to make or threaten any change in wages, hours, conditions of employment generally or privileges while any application is pending before the board or any matter is pending before a board of conciliation appointed under the provisions of this Act;

(k) to bargain collectively with a company dominated organization;

(l) to deny or threaten to deny to any employee:

(i) by reason of the employee ceasing to work as the result of a lock-out or while taking part in a stoppage of work due to a labour dispute where such lock-out or stoppage of work has been enforced by the employer or called in accordance with this Act by the trade union representing the employee, as the case may be;

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(ii) by reason of the employee exercising any right conferred by this Act;

any pension rights or benefits, or any benefit whatsoever under the employee enjoyed prior to such cessation of work or to his exercising any such right.

(3) It shall be an unfair labour practice for any employer or any person acting on behalf of a labour organization,

(a) to use coercion or intimidation of any kind with a view to encouraging or discouraging membership in or activity in or for a labour organization; provided that nothing in this Act precludes a person acting on behalf of a trade union from attempting to persuade an employer to make an agreement with that trade union to require as a condition of employment membership or maintenance of membership in such trade union or the selection of employees by or with the advice of a trade union or any other condition in regard to employment if such trade union has been designated or selected by a majority of employees in any such unit as their representative for the purpose of bargaining collectively;

(b) to commence to take part in or persuade or attempt to persuade any employee to take part in a strike while an application is pending before the board or any matter is pending before a board of conciliation appointed under the provisions of this Act.

(4) For the purposes of this Act, an application shall be deemed to be pending before the board on and after the day on which it is first considered by the board at a formally constituted

pending until the day on which the decision of the board is made, and a matter shall be deemed to be pending before a board of conciliation on and after the day on which the board of conciliation is established by the minister until the day on which its report is received by the minister.

Section 9.

No person shall take part in, aid, abet, counsel or procure any unfair labour practice.

Section 10.

A certified copy of an order or decision of the board shall within fourteen days be filed in the office of a registrar of the Court of Queen's Bench and shall thereupon be enforceable as a judgment or order of the court, but the board may nevertheless rescind or vary any such order.

Section 11.

(1) In any application to the court arising out of the failure of any person to comply with the terms of any order filed pursuant to section 10, the court may refer to the board any question as to the compliance or non-compliance of such person or persons with the order of the board.

(2) The application to enforce any order of the board may be made to the court by and in the name of the board, any trade union affected or any interested person, and upon such application being heard the court shall be bound absolutely by the findings of the board and shall make

such order or orders as may be necessary to compel every party with respect to whom the application is made to comply with the order of the board.

Section 12.

(1) Any person who takes part in, aids, abets, counsels or procures any unfair labour practice is, in addition to any other penalty which he has incurred or had imposed upon him under the provisions of this Act, guilty of an offence and liable on summary conviction for the first offence to a fine of not less than $25 and not more than $200, if an individual, or not less than $200 and not more than $5,000, if a corporation, and upon a second and subsequent offence, to such fine and to imprisonment not exceeding one year.

(2) Any person who fails to comply with an order of the board, whether heretofore or hereafter made, is, in addition to any other penalty he has incurred or had imposed upon him under the provisions of this Act, guilty of an offence and liable on summary conviction to a fine of $10, if an individual, or $25, if a corporation, for every day or part of a day on which such failure continues.

(3) No prosecution shall be instituted under this section without the consent of the board.

Section 24.

In addition to any other penalties imposed or remedies provided by this Act, the Lieutenant Governor in Council, upon the application of the board and upon being satisfied that any employer has wilfully disregarded or disobeyed any order filed by the board, may appoint a controller to take possession of any business, plant or premises of such employer within Saskatchewan as a going concern and operate the same on behalf of Her Majesty until such time as the Lieutenant Governor in Council is satisfied that upon the return of such business, plant or premises to the employer the order of the board will be obeyed.

Section 25.

Upon the request in writing of any employee, and upon request of a trade union representing the majority of employees in any bargaining unit of his employees, the employer shall deduct and pay in periodic payments out of the wages due to such employee, to the person designated by the trade union to receive the same, the union dues of such employee and the employer shall furnish to such trade union the names of the employees who have given such authority. Failure to make payments and furnish information required by this section shall be an unfair labour practice.

Section 27.

(1) Upon the request of a trade union representing a majority

following clause shall be included in any collective bargaining agreement entered into between such trade union and the employer concerned, and, whether or not any collective bargaining agreement is for the time being in force, the said clause shall be effective and its terms shall be carried out by such employer with respect to such employees on and after the date of such trade union's request until such time as the employer is no longer required by or pursuant to this Act to bargain collectively with such trade union:

Every employee who is now or hereafter becomes a member of the union shall maintain his membership in the union as a condition of his employment, and every new employee whose employment commences hereafter shall, within thirty days after the commencement of his employment, apply for and maintain membership in the union as a condition of his employment;

and the expression "the union" in the said clause shall mean the trade union making such request.

(4) Subject to any law or any regulation applicable thereto passed by authority of the Parliament of Canada, failure on the part of any employer to carry out the provisions of subsection (3) shall be an unfair labour practice.

Rules and Regulations:

clause 17.

(1) Any trade union, any employer or any person directly affected may apply to the board for its consent to institute a prosecution under section 11 of the Act.

(2) The application shall be in writing, shall be verified by statutory declaration, shall set forth the full details of the offence under the Act which it is alleged is being or has been committed, and two copies thereof shall be filed with the secretary.

SCHEDULE II

DEPARTMENT OF LABOUR SUMMARY OF ACTIVITIES
FOR WEEK ENDING MARCH 23, 1957

Shields Motor Products Limited, Prince George,
and
International Woodworkers of America, Local No. 1-424.

The hearings which were adjourned on December 10, 1956, continued March 19, 1957. Both parties were represented by counsel.

After hearing argument by counsel for the parties and considering representations made to it at the inquiry held December 18, 1956, together with information subsequently received in connection with the hours of work and earnings of the mechanics employed by Shields Motor Products Limited, the Board instructed that two Order be made. The first of these is as follows:

> "Whereas on inquiry it has been proven to the satisfaction of the Labour Relations Board that Shields Motor Products Ltd., an employer, has committed an act prohibited by Section 4(2)(a) of the Labour Relations Act, in that it did, on the 13th day of November, 1956, at Prince George, in the County of Cariboo, unlawfully refuse to continue to employ a person, to wit, Wesley Floyd Evans, because the said person is a member of a trade-union;
> "Therefore, pursuant to Section 7(2) of the Labour Relations Act, the Labour Relations Board hereby orders the said employer to cease doing the act prohibited and directs it to rectify the act so done by forthwith reinstating the said Wesley Floyd Evans."

The second order was similar in context, merely substituting the name of David Cormack in the place and stead of Wesley Floyd Evans.

provisions of [illegible] Colorado Labour Relations Act, (1944), c. 1., referred to in the attorney memorandum.

Section 4.

(1) No employer or employers' organization, and no person acting on behalf of an employer or employers' organization, shall participate in or interfere with the formation or administration of a trade union or contribute financial or other support to it: Provided that an employer may, notwithstanding anything contained in this section, permit an employee or representative of a trade-union to confer with him during working-hours, or to attend to the business of the trade-union during working-hours, without deduction of time so occupied in the computation of the time worked for the employer and without deduction of wages for the time so occupied.

(2) No employer, and no person acting on behalf of an employer, shall:-

(a) Refuse to employ or to continue to employ any person, or discriminate against any person in regard to employment, or any condition of employment, because the person is a member or officer of a trade-union;

(b) Impose any condition in a contract of employment seeking to restrain an employee from exercising his rights under this Act; or

(c) Seek by intimidation, by dismissal, by threat of

or by any other means, to compel or to induce an employer to refrain from becoming or continuing to be a member or officer or representative of a trade-union

but, except as expressly provided, nothing in this Act shall be interpreted so as affect the right of an employer to suspend, transfer, lay off, or discharge an employee for [illegible]

(3) If an employer illegally discharges an employee on the ground that the employee is or proposes to become, or seeks to induce any other person to become, a member of a trade-union, or on the ground that the employee participates in the promotion, formation, or administration of a trade-union, the employee shall be bound to reinstate the employee and to pay to the employee the wages lost by reason of the discharge.

(4) If an employer is found guilty of illegally discharging an employee on the ground that the employee is or proposes to become, or seeks to induce any other person to become a member of a trade-union, or on the ground that the employee participates in the promotion, formation or administration of a trade-union, the Magistrate or Justice or Judge by whom he is found guilty, in addition to any other penalty imposed, shall direct that the employer pay to the employee the wages lost by reason of the discharge.

(5) If an agreement is reached as the result of collective

bargaining or refusal by the head of both agencies to sign or execute the collective agreement, and refusal or neglect to sign or execute shall be an offence against this Act.

Section 5.

(1) Except with the consent of the employer, no trade-union and no person acting on behalf of a trade-union shall attempt at the employer's place of employment during working hours to persuade an employee of the employer to join or not to join a trade-union.

(2) No trade-union and no person acting on behalf of a trade-union and no employee shall support, encourage, condone, or engage in an activity that is intended to or does restrict or limit production or services.

(3) No act or thing required by the provisions of a collective agreement for the safety or health of employees shall be deemed to be an activity intended to restrict or limit production or services.

Section 6.

No trade-union, employers' organization, or person shall use coercion or intimidation of any kind that could reasonably have the effect of compelling or inducing any person to become or refrain from becoming, or to continue or to cease to be, a member of a trade-union.

(1) If there is a complaint to the Board that an employer or a trade-union, or a person acting on behalf of an employer or a trade-union, is committing any act prohibited by section 4, 5 or 6, the Board may serve notice of the complaint on the employer, trade-union, or person, stating a date, place, and time at which an inquiry will be made.

(2) If on the inquiry it is proved to the satisfaction of the Board that an employer, trade-union, or person is doing or has done any of the acts prohibited by section 4, 5, or 6, the Board shall make an order directing the employer or trade-union or person to cease doing the act prohibited, and may in the same order or in a subsequent order, direct the employer or trade-union or person to rectify the act so done.

(3) If, after service of the order, the employer, trade-union, or person does not obey the order, the employer, trade-union, or person is guilty of an offence against this Act, and a conviction therefor shall not prevent prosecution in respect of any offence committed by reason of doing the act prohibited.

Section 54.

(1) Any strike is illegal where the trade-union, [illegible] dispute has not complied with section 40 and any [illegible]

to 50, inclusive.

(2) Any lockout is illegal where the employer or employers' organization has not or has not recently has not complied with sections 40, 45, 46, 47, 48, 49, and 52.

(3) In any case where there is or has been a strike or lockout, the Minister may refer the matter to a Judge of the Supreme Court for an adjudication as to the legality or illegality of the strike or lockout, and as to whether a trade-union is or was involved in the strike or the employees belonging to or represented by a trade-union are participating or have participated in the strike.

(4) The Judge may fix a time for the hearing upon such notice to the employer and to the employees, or to any trade-union or person representing the employees, as he may deem proper.

(5) The employer and the employees may be represented at the hearing, and may procure the attendance of witnesses before the Judge in the manner provided by the rules of the Supreme Court.

(6) The Judge may hear such evidence as he thinks proper, either by affidavit or orally, and may dispose of the matter summarily.

(7) The Judge shall, upon making his adjudication, report the same to the Minister.

Section 57.

Where a Judge certifies to the Minister that a strike is or was illegal, and that a trade-union is or was involved in the strike, or that employers belonging to or represented by the trade-union are participating or have participated in the strike, the Judge may declare that:-

(a) The existing collective agreement made by the trade-union shall be null and void; and

(b) The written assignment of wages made to an employer in favour of each trade-union under section 9 shall be null and void; and

(c) The certification of the trade-union shall be null and void:

or may make any one of the said declarations.

Section 58.

(1) Every employer who causes a lockout contrary to this Act is guilty of an offence and liable, on summary conviction, to a fine not exceeding one hundred and twenty-five dollars for each day or part of a day that the lockout exists.

(2) Every person acting on behalf of an employer who causes a lockout contrary to this Act is guilty of an offence and liable, on summary conviction, to a fine not exceeding fifty dollars for each day or part of a day that the lockout exists.

(3) Every trade-union that authorizes or calls a strike

on summary conviction, to a fine not exceeding one hundred and twenty-five dollars for each day or part of a day the strike exists.

(4) Every officer or representative of a trade union who authorizes or calls a strike contrary to this Act is guilty of an offence and liable, on summary conviction, to a fine not exceeding fifty dollars for each day or part of a day that the strike exists.

Section 82.

No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Labour Relations Board.

Regulation 17

A complaint laid pursuant to section 7 of the Act in connection with sections 4, 5, and 6 of the Act shall be in written form, and shall set out the order which is sought from the Board and an outline of what is intended to be proven. The person against whom the complaint is laid out shall be notified of the complaint, and within seven (7) days of the date of the notice will submit his observations to the Registrar.

[illegible]

[illegible] application for the Board's [illegible]

inquiry as it deems necessary. The Registrar shall supply persons who would appear to be affected by the prosecution with a copy of the charge for which consent is sought.